

REMARKS

In the amendments above, Claim 20 has been amended to more particularly point out and distinctly claim Applicant's invention.

Claims 20-28, 30 and 31 have been rejected under 35 U.S.C. § 102(e) as being anticipated by the Saab patent. The Examiner maintains that Saab shows a catheter (10) for intravascular corporeal cooling comprising: an elongated tubular member (12) having proximal and distal sections, an outer surface, and at least one lumen (11) extending therethrough, and annular insulation (16, 22) having proximal and distal ends arranged concentrically (Fig. 1) around the outer surface of the elongated tubular member (12) is insulated from fluid or tissue external to the annular insulation (16, 22), wherein the insulation is tapered (at 18), extends along substantially the whole length or a shorter section of the catheter and comprises a fluid-filled member, filled with gas, water or saline and polymeric material (14, 20). The Examiner also maintains that with regard to Claim 30, the structure can be used for brain cooling.

Claims 20-24, 27 and 30-32 have been rejected under 35 U.S.C. § 102(e) as being anticipated by the Ginsburg patent. The Examiner maintains that Ginsburg shows a catheter for intravascular corporeal cooling comprising: an elongated tubular member (20) having proximal (24) and distal (26) sections, an outer surface, and at least one lumen (28) extending therethrough, and annular insulation (18, 32, 34) having proximal and distal ends arranged concentrically (Fig. 2) around the outer surface of the elongated tubular member (20) is insulated from fluid or tissue external to the annular insulation, wherein the insulation is tapered (Fig. 11) and comprises a fluid-filled member, and at least one lumen is in communication with a source of cooled blood and/or a liquid pharmaceutical source, which can be used for brain cooling.

Claim 29 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over the Ginsburg patent in view of the Donlon patent. The Examiner maintains that Ginsburg shows all of the limitations of Claim 29 except for the pressure sensor; that Donlon shows a similar catheter for placement in a blood vessel which includes a

pressure sensor (38); and that it would have been obvious to one of ordinary skill in the art at the time of the invention to use a pressure sensor in the device of Ginsburg to prevent injury by which can be caused by high pressure fluids in the bloodstream.

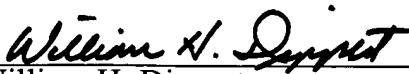
Applicant respectfully transverses the above rejections under Section 102(e) and 103(a).

Applicant again submits that whereas there may be some structural similarities between the invention claimed here and the teachings of the cited prior art, there are significant and fundamental differences. More significantly, the devices disclosed in the Saab and Ginsburg patents are directed to catheters constructed so that fluid in an inner lumen is heated or cooled by heat transfer from fluid circulated exterior to the lumen. In significant contradiction, the catheter claimed herein does not heat or cool fluid in an inner lumen. Rather, the temperature of the fluid, preferably cooled blood, is maintained at substantially the same temperature by insulating the fluid from the environment exterior to the catheter. In sum, the prior art devices taught promote heat transfer. Systemic cooling such as taught by the cited prior art has the disadvantage than if a patient's blood temperature is lowered too much, cardiac problems may ensure.

Thus, the cited patents do not disclose or suggest Applicant's invention. Therefore, the rejections under Section 102(e) and 103(a) should be withdrawn.

Reconsideration and allowance of the claims herein are respectfully requested. Should the claims herein be allowable but for minor matters that could be the subject of a supplemental submission or an Examiner's Amendment, Applicant would appreciate the Examiner's contacting Applicant's undersigned attorney.

Respectfully submitted,


William H. Dippert
Reg. No. 26,723

Reed Smith LLP
599 Lexington Avenue
New York, New York 10022
Tel: 212/521-5400; Fax: 212/521-5450